



Good News for NRAS Investors

NRAS recipients involved in non-entity joint ventures (NEJV): Legislation introduced and a letter of assurance from Minister Shorten

Today a bill was introduced into the House of Representatives amending the Income Tax Assessment Act of 1997 that will provide a legislative solution reflecting the Federal Government's intention that non-entity joint venture (NEJV) investors receive their full entitlement to the National Rental Affordability Scheme (NRAS) incentive. The text of the Bill and the Explanatory Memorandum is [here](#).

You may recall that in late 2009, CHFA wrote to Treasurer Swan seeking clarification on the Government's position concerning the participation of NEJVs in NRAS in light of an ATO interpretive decision that prohibited investors who leased their properties to an NRAS-entitled entity for sublease to eligible tenants from receiving the NRAS tax offset. Treasurer Swan responded in January 2010 with an administrative solution that resolved these tax issues for NEJVs until regulatory and legislative amendments could be introduced later that year to affect a permanent fix.

In February 2011 Minister Shorten released the exposure draft legislation to amend the NRAS tax offset provisions for public consultation. The bill, (*Tax Laws Amendment (2011 Measures No. 5) Bill 2011*) introduced today amends the NRAS provisions as outlined in that exposure draft and provides the permanent fix the Government committed to last year. After passage, the bill will go to the Senate and it is the Government's intention that the amendments are finalised by 30 June 2011, i.e. end of the financial year.

The ATO has also put information on their website providing advice on how they will accept tax returns as lodged by NRAS investors during the period up until the legislation is passed in Parliament. To access this advice on the ATO website go [here](#).

While this is great news for NEJV investors in NRAS, CHFA was concerned that there was no Government assurance about how the tax offset would be treated during the interim period between last year when an administrative fix was in place and such time as the legislation passed. CHFA learned of several instances where projects were in jeopardy of falling over (and one instance where an investor withdrew) because investors and financiers felt that in the absence of legislation or further Government assurances, the ATO may not grant NEJV investors the full tax offset benefit on their NRAS incentives.

CHFA wrote again to the Government seeking a commitment that NRAS investors would be able to claim and receive their full tax offset benefit in their 2011 tax return and would not be disadvantaged if the legislation did not pass by the end of the 2010-11 financial year. Today CHFA received a response from Minister Shorten that states the Government's intention to pass the Bill by 1 July 2011, confirms that benefits will be retrospective, and that the ATO will accept tax returns "as lodged" until such time as the legislation is enacted. His letter can be accessed [here](#).

CHFA would appreciate this information being disseminated as broadly as possible, especially to NRAS participants and your contacts in the investment and financial sectors.